

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

MARK WILLIAM COLLINS,

Plaintiff,

vs.

TIM FOX, JOHN MICU, SCOTT
HOWARD, MARK HILYARD, MORGAN
SMITH, and CHRIS MILLER,

Defendants.

CV 19-00082-H-DLC-JTJ

FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

Plaintiff Mark Collins filed a Complaint pursuant to 42 U.S.C. § 1983 alleging excessive use of force during the course of his arrest. (Doc. 2.) In *Younger v. Harris*, 401 U.S. 37 (1971), the United States Supreme Court directed federal courts to abstain from granting injunctive or declaratory relief that would interfere with pending state judicial proceedings. Because there is a pending appeal of Mr. Collins's criminal convictions involving the incident at issue, Mr. Collins was required to show cause why this matter should not be stayed pending the completion of his appeal of his state criminal convictions. (Doc. 9.) Mr. Collins agreed that this matter should be stayed. (Doc. 10.)

Accordingly, for the reasons set forth in the Court's Order dated December 9, 2019 (Doc. 9), the Court issues the following

RECOMMENDATIONS

This matter should be STAYED pending resolution of Mr. Collins's state court proceedings. The Clerk of Court should be directed to administratively close this matter and Mr. Collins should be directed to file a report on the status of his criminal charges every six months until such time as his criminal charges have been resolved. Mr. Collins should be advised that if he desires to continue this matter after disposition of the criminal charges against him, he must request the stay be lifted and the case be reopened within thirty days of completion of the appellate process.

DATED this 30th day of December, 2019.

/s/ John Johnston
John Johnston
United States Magistrate Judge